

30
REASONS

AGAINST THE

BILL

Before the

HOUSE of LORDS,

(For Disabling the Lord Provost of the
City of *Edinburgh*; to hold any Office
of Magistracy, and for Fining the said
City in *L. 2000 Sterling*,

Chiefly with regard to the said City and Citizens.

L O N D O N:

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(For the purpose of the Bill, the City of London is defined as the City of London and the Liberty of the City of London, and the Liberty of the City of London is defined as the Liberty of the City of London and the Liberty of the City of London.)

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LONDON

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REASONS, &c.

I.



THE Bill has the same Preamble which it had when it was sent down to the House of Commons; yet the Alterations made in it are so great, that the Incongruity of the Bill and Preamble cannot be accounted for.

2. The Bill seems to be unequally Partial.

Tho' the Lord Provost be the chief Magistrate, yet he is by all acknowledged to be the least Guilty. Nevertheless, he is branded with a Mark of perpetual Disgrace; and the other Magistrates supposed to be more Guilty, are not so much as mentioned.

If there be any Guilt in the City, it lies on the Magistrates. The City it self is not Guilty. Yet almost all the Magi-

strates escape, and the City is fin'd. This seems to be contrary to the true End of *Government*; tho' there have been *Governours* to whose Ends it would be very agreeable.

3. The Bill is Wonderful; for *by en-acting it creates*; by Creation it makes the City liable for things it had nothing to do with; and by Creation, it makes these things to be Criminal, which were not so by any Law before, and will not be so even by this *Creating-Law* afterwards. And no Precedent can be found for it, except you *create* a Parity between Cases which have no Likeness.

This will appear by the Particulars in the Bill.

4. The Bill (with respect to the City) sets forth,—— That there was a most outrageous Riot in it, carry'd on by wicked Persons (but whence they were, the Bills says not) who violently seiz'd the City's Arms, Guard, Gates, and Prison, and set the Prisoners at Liberty, but hang'd one of them, Captain *Porteous*, who was condemn'd (for Murdering and forely Wounding 16 or 18 Persons) but repriev'd by an Act of Grace, (all this is prov'd to be, and certainly is true)—— That for some Time before, it was commonly reported in the City, that some such atrocious Fact would be attempted
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(still true, and that no body believ'd it) which by proper Care in the (Magistrates) Citizens and Inhabitants, might have been prevented: Notwithstanding which, the Provost, who was fully appriz'd of the said wicked design, did not, &c. Nor were any Means and Endeavours used by the *Citizens and Inhabitants* to prevent or suppress the said *notorious* Riot, or to discover the Persons concerned therein in order to bring them to Justice.

And on all this the Bill subsumes, That ——— to express Detestation of the said Murder and Riot, ——— And that the said *Misbehaviours* and *Neglects* of Duty (not *Murder and Riot*) may not go unpunished ——— and that other Persons (*not Cities*) may not presume, through Hopes of Impunity, to be Guilty of the like for the future.

Now what is enacted for these Purposes? — That the Lord Provost shall never from henceforth be a Magistrate ——— and that the City shall be fin'd in 2000 *l.* to be given to Captain *Porteous's* Widow.

4. That the Riot was committed in the City by wicked Persons (*not said to be Citizens*) does not make the City liable by the Law of *Scotland*, is own'd and acknowledg'd on all sides. Therefore it is not, on this Account, liable at all.

all. It might be liable according to the *English* Law ; which perhaps was introduc'd by the *Danes*, or other *Oppressors in Power*, the better to mortify and trample on the People, and make them liable, tho' not guilty. But no such Law is in *Scotland*, nor has been extended to it since the Union (and I hope never shall, but that *England* shall be reliev'd from it or get it corrected) and therefore a *Scotch* City cannot be liable on such Law, which in that Country is not Law, and neither is it the positive Law of God, nor the Law of Nature and Nations.

The Town of *Cremona* was under the King of *France*, when Prince *Eugene*, with Numbers of Persons, enter'd it by the common Shore, and seiz'd and carry'd off the *French* King's Marshal *de Villeroy* (as considerable an Officer as Captain *Porteous* himself;) and the poor Marshal might have been *suffocated*, if not by a Rope, yet in the Dirt of the nasty Common Shore. Did not the Guards, did not the Magistrates, Citizens and Inhabitants of *Cremona*, know how vigilant and enterprizing Prince *Eugene* was ? Were they not fully apprized that he was near them, with great Numbers of Blood-thirsty Persons, who would be disorderly ? Why did they not prevent and suppress this Attempt ? 'Tis true, they were not Guilty
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on this Account by their own Law. But what then? for on this Account they *were liable*, by a Law which they *were not liable to*. And it is very strange that the *French Tyrant Louis le Grand* (who *by hook and by crook* enslav'd all the Persons and Cities he could) did not think of this, and Publish an Edict of Pains and Penalties against the Provost and Citizens of *Cremona*. It would then have been Law in *that Case*, tho' not Law *before* nor to be Law *afterwards*.

But Prince *Eugene* was not the *French King's Subject*, he and his disorderly Fellows belong'd to a foreign Enemy.—A poor Excuse for the *Cremonaises*! he was born in *France*, but turn'd a disorderly Blood-thirsty Man.—And was it less Guilty, not to prevent and suppress foreign Foes, than domestick Rioters? —Ay, but the Fault was Marshal *de Villeroy's*, who had the Command of the Troops. Ay, indeed and so it was. And I wonder that the *French N——ty*, to convince his Majesty of their Ardor in his Service, did not contrive an Edict, to abolish the Guards in *Cremona*, and to set open their Gates, for none of them had been of use in preserving the Marshal. And if the *Germans* could come in by an open Gate—Why, so could the *French*; for the *Gallican Ministry* love to have
Troops

Troops at hand to defend, awe, subdue, and keep under a City. But you Gentlemen of *Cremona*, tho' you had Troops and Captains, and Generals to hector and defend, and neglect you, yet that shall not free you from your Duty of *ordinary* Watching and Warding *in order to make you Guilty* (tho' a silly Paper *, you think much of, says otherwise) and therefore you shall suffer the Pains and Penalties of Disgrace, losing your Guard, and the Use of your Gate. But when we think on't (for you all see that one seldom thinks, and seldom thinks right) such Pains and Penalties may let the *Germans* more easily a second Time burn and slay, and do God knows what, in the *good Town*. *Le Diable !* But what ? Shall such enormous Misbehaviours go unpunished ? No, you *vanquished Scoundrels* of *Cremona*, for your being insulted, affronted, abus'd, and put in Peril, and not relieved, nor in the least assisted by our Troops, and Officers of Justice and Politicks, you shall pay down 50,000 Livres ! *Car tel est nôtre Plaisir !* And after this, Hopes of Impunity will not tempt the *Germans* to be so saucy another Time, nor our Officers to be so Negligent, nor yet your Magistrates,

* Act of Parliament, constituting the City Guard
19 July, 1690.

whom we and our Servants, Servants, Servants, &c. &c. &c. &c. set over you.

—— But let us leave *French Government* in *Italy*, and consider it in *Britain*.

Whatever be the Law in *England* concerning a Tything, Hundred or County, concerning a Town, Borough, or City, being liable for what is done in that Territory, tho' not by themselves; yet it is only Law by Force of positive Law Institution; and Gentlemen to whom it is turn'd familiar, by having always been under it, fancy that others may be under it too. But pray don't judge the *Scotch* by this Law of yours, and not of theirs, till you judge yourselves by it in a Case that is much stronger according to the Reason and Analogy of your Law.——

A Family can much more easily and exactly answer for what happens in the House of its Residence, than for what happens in the City wherein that House is situated.

If Villains break into the House, and murder one of the Servants, with very atrocious Circumstances, will the Family be lyable for it? And if the Family in good Nature and Generosity settle a Yearly Sum on the Widow of the Deceas'd, to make her live better than ever she had done in her Life, and all that she or her Friends desir'd for her; would

you compel this worthy honest Family to give much more to the Widow, who has not a Legal Title to a Farthing from them? Would you enrich this Woman far beyond the largest Wish of her Heart, by a Fine from the Family sunk in Debt? This Instance might be carry'd through all the steps of the present Case.

5. The Citizens could not do any thing to prevent it, nor yet to suppress it, except they had been lawfully call'd and authorized by the Sovereign or their Magistrates. They could not meet to keep out the Rioters, nor to suppress them, unless so authorized, without themselves incurring the Pain of Death. *Q. M. P. 9. 4 June, 1563. A. 83.* Were they so Authorized? No. Yet an Act of Pains and Penalties makes them guilty for not doing it! Fines them in *L. 2000 Sterling*, for not incurring the Pain of Death! Ay, but in *England* they might have done it safely and laudably---Therefore they are guilty for not being hang'd for transgressing the Law of the Country they liv'd in, by laudably following the Law of the Country they did not live in!

6. Were the Citizens, after the Riot, to have left their Shops and Warehouses, and run about to make Discoveries of the Guilty? Would this have been the Part of dutiful Citizens, or of idle Busy-bodies,

dies, when they knew that they had Magistrates, Assessors, Procurator - Fiscals, Clerks, &c. whose proper Business it was? When they knew it was the Duty of the Officers of the Crown, who were employ'd in it with great Diligence?

7. Does it follow, That because the Lord Provost *heard a Report*, that therefore he was *fully appriz'd* of the *Design*? And the Bill asserts not, that the *Citizens* were *fully appriz'd* of the *Design*, yet takes it for granted, else why are they punished? especially since the Report was not believ'd; no not by *Porteous* himself, as he declar'd to a Clergyman a little before his Tragical End. It is prov'd by Persons of Worth (and some of them *English*) that it was not believ'd, because it was not thought any would be found so wicked. And if the Reason of disbelieving it was, that proper Care would be taken to disappoint it; yet how can that affect the Citizens, who could not take that Care, and on whom it was not incumbent? *Vide supra* N^o 5.

8. The Bill says, *Inhabitants*, as well as *Citizens*, were negligent. Therefore what? Therefore the Guilt of the *Inhabitants* was the Guilt of the *Citizens*; for the *Citizens* are punished, and not the *Inhabitants*! The Fine is to be paid out of the City's *Common Good*, i. e. Estate

and Revenue. This belongs to the Citizens, and not to the Inhabitants; therefore the Inhabitants pay nothing, suffer nothing, are not punished, tho' said to be guilty; but the Citizens suffer for the Inhabitants as well as for themselves, as the Provost does for the other Magistrates.

9. The Bill sets forth the End propos'd to be obtain'd by it, *viz. Punishment* of what is past, and *Example* to deter Transgressors in time coming. But it punishes the Guiltless, and not the Guilty. It punishes the Citizens for not incurring Guilt that by Act of Parliament subjected them to the Pain of Death. It punishes the Citizens for the suppos'd Guilt of others, *viz. the Inhabitants*; and it *punishes them for Crimes committed immediately and directly against themselves*; for affronting and insulting of *their* City and Magistrates, seizing of *their* Gates, and Guard and Arms, breaking *their* Prison, and committing so enormous a Murder on *their* Streets, and for putting *their* Persons, Families, Houses, and Goods, in imminent Danger. The *Offenders* deserve most severe Punishment; and since they are not catch'd, the *Offended* are put in their Place! And among the (supposed) guilty Magistrates, he who is own'd to be least guilty, is punished, and the rest go free.

10. Such

10. Such Example can never deter Transgressors; for it is a Precedent, in every Point of it, the Reverse of punishing Transgressors; but it tends to induce Men to think that *Favour* is better than *Innocence and Virtue*, which, to their Cost, the Citizens find are not sufficient to protect them. And they must see that *Favour* may, for certain obvious Reasons, screen those (supposed) most guilty, and for Reasons as obvious, not screen one acknowledg'd to be least guilty.

And there is another dismal thing in this Example. *Persons thought Guilty* are saved; but a *Community not Guilty* is punished. Why, consider whether Mankind will not assign two Reasons for it. 1. A Bill of Pains and Penalties against a *Community*, will not be a Precedent as to any *particular Person*: And who knows what particular Person may be attack'd by such a Bill? 2. To hurt the Estate of a *Community* takes nothing out of the private Pockets of those who lead the *Community*; and if these Leaders of it be not disabled, they may lead it still under powerful Influence; and they will say, we need not wonder to see this befall the City of *Edinburgh*, that in *former Times* (not *now* surely) has happen'd to the Kingdom,

There;

Therefore this Example can only make *Bad or Weak Men* to dread being *Virtuous without Favour*, and *Honest and Firm Men* to dread *arbitrary Measures*. Are the most Part of Men endu'd with so little Honesty? are they turn'd so corrupt and dastardly, as not to lay this to Heart?

Again, the Example cannot do Good, but Mischief. As the Bill makes that to be criminal, which was not so by any Law, and punishes for not doing what the Law expressly forbid under Pain of Death; so it leaves the Law to stand as it did for all future Cases. It is for this Case only: But, for the future, a City in *Scotland* is no more liable for Offences committed in it, and not by the Citizens, than it was before. The Citizens will be still liable to the Pain of Death, if they assemble and use Violence in the City, not being authoriz'd to do it by the King or their Magistrates: And they must still trust the Care of publick Affairs to the proper Officers of the City and Sovereign, and be in no Capacity to act in them. What Alteration therefore can this Precedent make in their Conduct? But it must make this Alteration in their Minds. Formerly they believ'd they were safe, by observing the Law of their Land, and they trusted to it, and their Governours who have the Administration of it.

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But now they must dread a second Instance of punishing them notwithstanding. They must dread the woful Dilemma they are under — Transgress the Law of your Country, and be seditious busy Medlers in the proper Business of your Superiors, to the Neglect of your private Employments, and to your incurring the Pain of Death: Or, observe the Law and your Duty, and be disgrac'd and fin'd by a Bill of Pains and Penalties! —

A King cannot do wrong. But former Ministries have so often inclin'd to be arbitrary, that it would not much surprize the Nation, to see another Ministry pursue the same Measures, no more than it would astonish us to see a Quack prescribe noxious Physick. But if the regular Physicians of the Nation should, for a sudden Fit of an acute Distemper, administer Poyson instead of wholesome Medicine; what would be the Astonishment, what would be the Terror, what would be the Indignation of the People? And would they not think that a Quack had got at the Head of the College, and led them as he pleas'd? Can Dr. Mead, Sloan, Brookes, Clarke, &c. do nothing effectual to stop and cure this? Tho' Dr. Sydenham, Ratcliff, Pitcairn, &c. be dead and gone, are there now no able Physicians to take effectual Care of the distemper'd Nation, and

and relieve the poor poyson'd People from the *Regimen* of a Mountebank?

11. But it is pretended, that the Citizens are guilty. And to make them appear so, extraordinary Maxims must be established of what makes sufficient Proof for a Bill of Pains and Penalties. It is said that—legal Proof is not needful—Circumstances and Probabilities are good, as they are even in some ordinary Trials—And it is enough if you act according to your Conviction, and can stand up with a solemn Air, lay your Hand on your Heart and say—*I believe it in my Conscience!* But

Evidence must in all Cases come up to the Conscience; or *Woe* to the R——I who sustains it. But *Woe* must be to the Nation, if any are to be convicted of Guilt, or what Men will call their Consciences without, or on bad, Evidence. This is to substitute Fancy, Conceit, and Misapprehension (perhaps much worse) in the room of Conscience. Who knows not, that all such Sort of Considerations, Motives, and Inducements, as are here pled for instead of Evidence, work on Men according to their different Ages, Constitutions and Tempers, Occupations, Company, &c. They make not the same Impression on a Young and Old, on a Merry and Morose, on a Good and Ill-natur'd Man;

Man; on one of Experience and one of little or none; on the same Person in Sicknefs and Health, in a gay Humour, and a Fit of the Spleen; on one who haunts this or the other set of Company. But good Evidence is more plain to the common Sense of all Mankind, and depends not on the various and variable Situations of particular Persons. And

Circumstances may contain Evidence, and Probability have also some Weight. But then there must be good Evidence of these Circumstances, and of the Facts which are the Grounds of the Probabilities. And such there is not in this Case. And

If all the Nicety of Proof required in an ordinary Trial, or in a Parliamentary Impeachment, be not necessary for a Bill of Pains of Penalties; yet in Justice, and for the Safety of the People, that they may not be put to Death, Forfeited, Fin'd, Imprison'd, or any way hurt, *Arbitrarily*, but for *real Offences* that they are *really Guilty* of, all the *Substantials* of *good Evidence* must be observed. And if the Necessity of the Preservation of the State, *i. e.* of the Nation, should at any time (which cannot be often and but very seldom) should, I say, necessarily call for less, and thereby for an extraordinary Approach towards Injustice, surely it

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must be in so great Cases only: Not for a thing that is *past* and can have *no Consequence*. Not for such a Riot as this; nor even for such a Murder, tho' most enormous, and wicked, and an Indignity to Government. For otherwise, that which you call Government, must destroy the Ends of Government, *i. e.* destroy it self; and Government must turn to *Tyranny*, and not defend and support, but oppress and devour the People; and their Government must become as bad to them, as the cruel Dominion of a Foreign conquering Foe. At this Rate, what better is a Bill of Pains and Penalties, than the *French* King's *Lettre de Cachette*? What is such an Act of Parliament better than such an Edict? It is all one to the Sufferer, it is the same to those who see they may come to suffer in that Way, whether their Sufferings be inflicted by one or many. It is the Justice to Innocence and Guilt that is only material.

But by the Law of *Britain*, the Parliament is unlimited; and what the Parliament does is the Act of all the People, because the People chose the Parliament.

—— I will not at present debate this. But under an absolute Monarchy, the despotick King is also by Law unlimited. And if the People chose that absolute

solute King, his Acts in the same manner are theirs. The Excellency of our Constitution of King and Parliament (and may it endure as long as the *Sun* and *Moon*!) is, that there is small appearance that a Parliament will be Arbitrary; for the Members are subject to the Laws and Precedents they make; which an absolute Monarch is not to those that he makes. Therefore such Maxims, as to Evidence, do not become a Parliament, and therefore it is humbly hop'd they will not be establish'd by any Precedent in Parliament.

12. The Evidence offer'd against the City of *Edinburgh* does indeed want the support of such Maxims; for without that Support none can see any Force in it.

Let us hear what it is.

The Magistrates knew they had exasperated the People by the Blood shed at *Wilson's* Execution; and therefore to save themselves, they sacrific'd their Servant *Porteous* to the Fury of the Mob. And the Citizens were bitterly angry at *Porteous*, and insulted him in the City as he was carry'd from Prison to his Trial. Hence it is that none of the wicked Actors have been discovered. No Citizen would discover their guilty fellow Citizens, nor their foreign Accomplices. And no Wit-
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nesses.

nesses have been adduc'd but Citizens or Inhabitants of *Edinburgh*. It is not said, that all the Citizens were engaged in this Wickedness, but some of them must have been concerned in it. For the Witnesses have only declared as to 60 or 70 Strangers. Yet there was a Multitude of Persons, and therefore of Citizens or Inhabitants, or of their Servants, Apprentices or Journeymen. And at least, the Citizens are therefore certainly Guilty of not discovering but concealing the Actors, for they could not but know their own Apprentices and Journeymen, their own Servants, who were Guilty. And since there were but 60 or 70 Strangers, why did not the Citizens beat them off? In short, the whole History of the Affair, the whole Strain of the wicked Transaction, shews the Guilt of the Citizens. But,

13. Let it for once be supposed, what the Objection begins with *viz.* That the Magistrates for their own Safety sacrific'd *Porteous* to the Wrath of the Mob; yet what does that conclude against the Citizens? We speak not of the Magistrates, but of the Citizens. The Magistrates are out of the Case, for they are out of the Bill (except the poor Provost) tho' if Guilty of this, they deserve a more severe Punishment than the actual Murderers.

derers. The Provost not only deserves to be *declared* incapable; but he, and all of them, to be treated as the most execrable of Men. And therefore since they are not, and never were in the Bill, it is impossible that they were ever deem'd Guilty of this. How then can the Citizens, or even the Inhabitants, be reckon'd Guilty? None were exasperated at them, for the Blood shed at the Execution of *Wilson*. None of them had any reason to dread the Resentment of the Mob. Why then should they have wickedly sacrific'd *Porteous* to the fury of the Mob?

I doubt not but the Citizens were displeas'd with *Porteous's* Conduct at the Execution of *Wilson*. All the Earth who have heard it, tho' their Sentiments might differ widely about the Degree, Nature, and Deserving of his Guilt, yet agree that it was very rash and culpable. But very few or none of the Citizens could be exasperated at him on a Personal or Family Account. They were not the Persons wounded, nor were their Relations kill'd. These poor unhappy Persons were not Citizens, nor the Children or near Friends of Citizens, but of Men not concern'd with the City. Therefore it cannot be deem'd that their Anger would carry them to a Wickedness so great. It might rather be presumed against those
Stran-

Strangers, who in their Persons or near Friends, suffered by *Porteous's* culpable Rashness and Rage. Many others as well as Citizens, were offended and angry at *Porteous*, who yet would themselves have suffered Hanging, rather than have been accessory to the hanging of him in the vile Way it was done.

And it does not appear who they were that insulted *Porteous* going to his Tryal. They were in the City who did it ; no doubt: For he was in the City whom it was done to ; and so they were in the City, who hang'd him in the City. But it does not thence follow, that they were Citizens. Multitudes of others come to that City every Day. And they being People who belong'd not to the City that suffer'd by the Fact for which he was try'd, and who thence were most enraged at him, we may conclude, that many Strangers to the City came to see his Tryal, and would be most inclin'd to insult him. And these Insulters were of the lowest People. None of any sort of Regard commit such Meannesses, that only suit the rascally Rabble.

That no Discovery has been made, and therefore the Citizens are guilty, is a most surprizing Inference. Good Lord ! Is it made an Argument of their Guilt, that there is no Proof ! Thus we see what

it is, to put pretended Conviction and Conscience without Evidence, in place of good Proof!

And it is not true, that no Witnesses have been adduc'd but Citizens, or those who had an Interest in the City. If it were true, why did not those who carry'd on the Bill adduce others? for many others were at *Edinburgh* on that dismal Night. But they did adduce others; particularly Officers of the Army of the First Rank. And they adduc'd People who have near Concern in the City, of whom they do not complain; but the Magistrates complain of them; and some who wish very well to the City, are not much pleas'd with them. And *English* Officers of the Navy, &c. have been adduc'd as Witnesses against the Bill.

If but some of the Citizens are pretended to be guilty, why are they all, why is the City punished? If the Magistrates were guilty (which they are not, for this among many other Reasons, that they are not punished) yet that would not prove Guilt against the Citizens, for which they ought to be punished, and yet the Magistrates not be punished as *Magistrates*.

It is not true, that according to the Evidence, only 60 or 70 Strangers were seen in the wicked Act. Such was the
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Number of those who appear'd to direct and conduct the Wickedness; but those they directed were very many. A Multitude seiz'd the Guard and Arms, a Multitude seiz'd the Gates, and a Multitude were seen in the Morning going from the City: And these Persons were quite unknown to them who best know the Citizens, and daily converse and deal with them. What other Proof can, according to the Nature of the Thing, be adduc'd of this *Negative*—That the Citizens were not concerned in the Wickedness? And if Inhabitants, City Apprentices, Servants, or Journeymen, had been engaged, they must have been known. But not any Witness said he knew any such among the Rioters, but one Witness only, who is a Merchant in *Edinburgh* (and yet all *Edinburgh* People are slander'd with Partiality, and false Concealment!) and he knew none such but one Apprentice. And therefore the Question is easily answered, *viz.* Why those few Rioting Strangers were not beaten off? They were not few, they were very many.

And if there had been many City Apprentices, Servants, and Journeymen engaged, yet these are not Citizens, and could no more infer Guilt on the City of *Edinburgh*, than the ancient brave Citizens of *Rome* were disgrac'd by the Seditions

tions of their Hirelings, and the lowest of the People. These were never imputed to the Citizens, who were Masters of the known World, and with Dignity commanded Kings, and the best Part of the Earth then discovered; yet such Insurrections they had among them: And hard would be the Case of the Citizens of a rich frequented City, if they were liable for such Persons, who are always vastly more numerous than the Citizens, and the Citizens are not set over them, as Officers over an Army.

But it is said with a kind of Triumph, that the Citizens are guilty of not discovering, but concealing the wicked Actors, especially their own Servants, Journey-men and Apprentices, whom they could not but have known to be concerned — This might have been better said, had it been proved that such were engaged. But there is not the least Evidence of it, except one Witness as to one Apprentice. But all Apprentices do not lodge in their Master's Houses, and very few Journey-men do; and some domestick Servants go home all Night to their Wives: And therefore such might have been engaged, without their Masters Knowledge. But what can be inferr'd from this groundless Allegation at any rate? Misprision of Treason is, but Misprision of Felony is

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not a Crime by the Law of *Scotland*. The Citizens are first declar'd Criminal for that which by Law is not a Crime; and then a Fact that is not made appear against them, is supposed to be a Crime, tho' none by their Law, in order to prove them guilty of the first *No-Crime*!

From All I may justly conclude, that the whole History and Strain of the Affair shews the City and Citizens are not guilty. And it is a Wonder, that in a City so populous, some foolish, wicked Citizen (such there are in every City) was not concerned; that no Guilt, after so much earnest Examination by those in high Power, has appear'd against any belonging to the City. This manifestly shews, that the Rioters came from other Places, and trusted not themselves to the People in the City. This Presumption is stronger than all that have been made use of against the City.

And after so earnest and long an Enquiry, manag'd with Zeal by such Persons, and no Guilt appearing, if yet the City and Citizens be punished as guilty, and guilty by no Law they were bound by; what City, what Borough, or Town, in *England* can escape, if attack'd and prosecuted in the same Manner? And the Difference, above-noticed, between the *English* and *Scotch* Law, will make it still
more

more easy to reach *English* Cities, Towns, and Magistrates. And tho' the Smalness of *Scotland*, on every Account, in comparison with *England*, makes the Danger less apprehended, of *punishing an English City, not on English, but Scotch Law*, yet here is a Precedent for it. If there should come a very powerful and *untrouable Minister*, who hated the City of *London*, and its *eminent and worthy* Representatives in Parliament, and who (contrary to the Maxims of all his Predecessors, and to the Astonishment of all good and sensible Men) continually made War on that Great and Well-deserving City, on whose Welfare the Prosperity of *Great-Britain* depends so very much; would not *such a Minister* catch an Occasion for pushing a Bill of Pains and Penalties against *London*, on the *Scotch*, and not *English* Law, and tell us it was as just as to make *Edinburgh* suffer on an *English*, and not a *Scotch* Law?

This Behaviour looks not as if the People of *Edinburgh*, higher or lower, were madly Enthusiastical and Mutinous, inspir'd by their factious Enthusiastick Preachers and Ministers. Yet so were they, and most of their Countrymen, *foolishly and falsely* charged to be, and to have been since the Reformation. And some take them to be *Jacobites*. But if there be

People in *Britain* (as I believe there are many in every Corner of it) who have it sincerely as a Principle of Conscience, to be for good Government and Liberty, and to be for the *Protestant* Succession, there are very many such in *Edinburgh*, and multitudes of them in *Scotland*, and ever since the Reformation have been, and who have acted and suffer'd much for those Principles. And it is the worst service to the present Government to misrepresent such People, to discountenance them, and to encourage and support Men of opposite Sentiments, because more complying and subservient to present Measures. But such is turn'd the Fashion! Such are now the Politicks! So were the Primitive Christians served by their Heathen unchristian Persecutors; sew'd up in the Skins of Wild Beasts, that they might be torn in Pieces by Mastiffs.

Those who can endeavour to fix such Disgrace on the best affected Men, may also set a Mark of perpetual Disgrace on one of the best affected Cities. How much this Disgrace must be to their *real Hurt*, is too manifest to be insisted on. He must be altogether ignorant of human Affairs, who can doubt it for a Moment.

It is not less astonishing and shocking to hear it said by Men of Figure, that greater Caution and Tendernefs is to be used

used in a Bill of Pains and Penalties towards a particular Man than towards a City or Community, and that stronger Proof is required in the first Case than the last. Yet a City, a populous and eminent City, is of more Value than any particular Subject. What Reason can therefore be assign'd for this absurd Doctrine, but that which is mention'd above, *viz.* that *particular Men* have their own private Interest more at Heart than the Interest of the Publick, and are more afraid of a Precedent that one Day may reach themselves, than of such as may destroy Multitudes of his Majesty's best Subjects.

The Case of the City of *Glasgow* was not at all parallel to this; tho' the Transgression of that Mob was also very heinous, being on Account of a publick Law past in Parliament, when the Gentleman who was mobb'd sat in it. But it was a Riot for many Days, by the far greater Part of the Citizens, either actually concurring in, or palpably encouraging or conniving at the Mischief. Yet no *Punishment* was inflicted on them for the *Crime*. They were only order'd to make *Restitution*, which was due on a *Civil Account*.

The Case of Dr. *Lamb* happen'd in *London*, i. e. in *England*, where the Law
is

is different from *Scotch* Law. But has no dangerous or wicked Mob happen'd in *London* since? If such Example has signify'd so little where it had the Colour of Justice by Law; what Good can it do where it has not any Colour of Law but is contrary to it?

But shall nothing be done? Not against the Innocent, not against dutiful loyal Subjects; not against a dutiful well affected City, who have not transgress'd. God forbid that any thing should be done to hurt or disgrace such! Proceed against the Guilty by every just Method of Severity, *that may not be artfully stretched against the Innocent*, and all good Men will approve of it.

FINIS.

